

**REMARKS**

In the Decision on Appeal, decided January 30, 2008 (hereinafter “Decision”), the Board:  
Affirmed the rejection of claims 1-3, 5-8, 10, 11, 13-19, 27-29, and 32-34 under 35 USC  
§ 103(a).

Affirmed the rejection of claims 1-11, 14, 15, 19, 27-29, 33, and 34 under 35 USC §  
103(a).

Affirmed the allowance of claim 12.

Affirmed the cancellation of claims 20-26, 30 and 31.

In this response, claims 1, 12, 14, 18, 27, 28 and 32 are amended. Claims 10, 11, 18, 19,  
29, and 33 are cancelled. Claim 35 has been added. As a result, claims 1-9, 12-18, 27-28, 32,  
and 35 are currently pending and subject to examination in this reopened prosecution.

**§103 Rejection of the Claims**

Claims 1-3, 5-8, 10, 11, 13-19, 27-29, and 32-34 were rejected under 35 USC §103(a) as  
being unpatentable over Goldman et al. (A Constraint-Based-Scheduler for Batch  
Manufacturing) in view of Tanaka (U.S. Patent No. 5,353,229). The claims have been amended  
or cancelled, rendering the rejection moot.

Claim 1 now recites that “separate engines process the discrete and continuous  
constraints and propagate additional constraints to each other to produce a schedule for the  
activities”. Support for this amendment is found at least on page 8, lines 2-19. This feature is  
not believed shown in the references. Claims 3, 5-8, 10, 11 and 13 depend from claim 1 and are  
also believed allowable for at least the same reason.

Claim 14, along with dependent claims 15-17 has been similarly amended.

Claim 18 has been rewritten in independent form and modified such that only  
chronological backtracking is identified. It is thus believed allowable as claim 12 was indicated  
to be allowable with the same recitation.

Claim 19 has been cancelled.

Claims 27, 28 and 32 have been amended in a manner similar to claim 1 and are believed  
allowable.

Claims 29, 33 and 34 have been cancelled.

New claim 35 depends from claim 1 and is believed allowable for at least the same reasons. Support for new claim 35 is found at least at page 12, lines 14-17.

Claims 1-11, 14, 15, 19, 27-29, 33, and 34 were rejected under 35 USC § 103(a) as being unpatentable over Zweben et al. (U.S. Patent No. 6,216,109).

The independent claims have been amended as described above and are believed to render the rejection moot, as new features have been recited that are not believed found in Zweben et al. In particular, Zweben et al., was reviewed and not found to have separate engines that process discrete and continuous constraints and propagate additional constraints to each other to produce a schedule for the activities. Even if Zweben et al., refers to constraints that were found to be similar to the discrete and continuous constraints of the present application, there is no teaching of the method of processing them with separate engines that is now claimed, nor of propagating additional constraints to the separate engines.

*Allowable Subject Matter*

Claim 12 was objected to as being dependent upon a rejected base claim, but was indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 12 has been so rewritten, but the following language from claim 1 was not included: "wherein the continuous constraints are related to other variables by linear mathematical relationships". This language was not thought to be relevant to the finding of allowability.

**REQUEST TO REOPEN PROSECUTION UNDER 37 C.F.R. § 41.50(a)**

Serial Number: 09/188399

Filing Date: November 6, 1998

Title: AUTOMATED FINITE CAPACITY SCHEDULER

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Dkt: 256.029US1

**CONCLUSION**

Appellants respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 371-2140 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

MARK S. BODDY ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
612-371-2140

Date March 27, 2008

By

David D'Zurilla  
Reg. No. 36,776

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this

27 day of March 2008.

Name

Mark S. Boddy

Signature

Mark S. Boddy